

1 **Camden County Planning Board**
2 **Minutes**
3 **February 18, 2009, 7:00pm**
4 Historic Courtroom
5 Camden County Courthouse Complex
6

7
8 Members Present: Chairman Rodney Needham, Absent: Michael Etheridge
9 Vice Chairman Terri Griffin,
10 Fletcher Harris, Ray Albertson,
11 Calvin Leary, John Aydlett
12

13 **Call to Order & Welcome**
14

15 Chairman Rodney Needham called to order the February 18, 2009 meeting at 7:05 PM.
16

17 **Others Present at Meeting**
18

19 Present were staff members Dan Porter, Planning Department Director, Dave Parks, Permit
20 Officer and Flood Administrator, Aaron Maupin, Code Enforcement Officer, and Amy
21 Barnett, Planning Board Clerk.
22

23 **Consideration of Agenda**
24

25 Chairman Rodney Needham called for the consideration of the agenda. Planning Director
26 Dan Porter noted a few items to be added to the agenda, those items added under
27 'Information from Staff'. Vice Chairman Terri Griffin made a motion to approve the
28 amended agenda. John Aydlett seconded the motion. The motion was approved with
29 Chairman Rodney Needham, Vice Chairman Terri Griffin, Members Fletcher Harris, Ray
30 Albertson, Calvin Leary, and John Aydlett voting aye; none voting no; 1 absent; none not
31 voting.
32

33 **Consideration of the Minutes- January 21, 2009**
34

35 Chairman Rodney Needham called for the consideration of the minutes from the January 21,
36 2009 meeting. Calvin Leary made a motion to approve the minutes from the aforementioned
37 meeting as written. Fletcher Harris seconded the motion. The motion was approved with
38 Chairman Rodney Needham, Vice Chairman Terri Griffin, Members Fletcher Harris, Ray
39 Albertson, Calvin Leary, and John Aydlett voting aye; none voting no; 1 absent; none not
40 voting.
41

42 **Comments from the Public.**

43
44 None - No public was present for this meeting.

45
46 **Old Business**

47
48 None

49
50 **New Business**

51
52 ***Ordinance No. 2009-03-01, Amending Camden County Code of Ordinances, (specifically***
53 ***amending chapters 10 and 90)***

54
55 Dan Porter described the background of this issue and introduced Aaron Maupin, Code
56 Enforcement Officer for Camden County. (Aaron is also a Building Code Enforcement
57 Officer, but has recently been assigned to Code Enforcement). Aaron reads the zoning laws
58 like he reads the building code, so he has pointed out a number of things in trying to enforce
59 the zoning laws. Staff took a couple of issues to the Board of Commissioners and they asked
60 the County Attorney to look into these matters. The issue we brought to the Commission
61 really had to do with 'what is a violation of the junk car ordinance?'. What the County
62 Attorney brought back to staff were a couple of changes related to the junk car ordinance, but
63 not necessarily any particular comments on what constitutes a violation. So when staff
64 brought that to the commission, they referred it back to the Planning Board. The chapter of
65 the code of ordinances that deals with junk cars (Chapter 90) is a separate chapter from the
66 land use ordinances (Chapter 151). Staff provided to the Planning Board copies of the
67 changes as recommended by the County Attorney.

68
69 One of these changes is actually in chapter 10 of the Camden County Code of Ordinances,
70 which deals with general penalties. The change for chapter 10 is to recommend the addition
71 of civil penalties, based on visible available evidence. With civil penalties, you can fine
72 people who are in violation of an ordinance. This is better than having to take them to court
73 for criminal violations of ordinances, because with criminal court you have to prove beyond
74 a reasonable doubt that they are in violation... with a civil penalty, you can use the visible
75 available evidence to prove violations exist, and the person doesn't get a criminal record nor
76 have to pay any attorney's fees. With civil penalties, you can fine people and continue to fine
77 them until their fines get high enough to take them to civil court (this is if they refuse to pay
78 their fines). At which point, you would have to pay attorney's fees, so you would want to
79 wait until their fines are high enough to cover attorney's fees. If they don't pay their civil
80 fines after being taken to civil court (and presumably being found guilty or at fault), then
81 they are in contempt of court, which gets back into the criminal issue. So there is a little bit
82 more flexibility with civil penalties and fines.

83
84 One of the recommendations the County Attorney suggested was to add a section in Chapter
85 10, Rules of Construction; General Penalty, paragraph B... "Any act constituting a violation
86 of the provisions within this code of ordinances or a failure to comply with any of its
87 requirements shall also subject the offender to a civil penalty...".

89 Calvin Leary asked the question what does this ordinance have to do with the Planning
90 Board. Dan Porter answered saying that it has to do with the Planning Department, who is
91 responsible for implementing (Zoning) Code Enforcement. Also, if you have 2 or more
92 unregistered cars on your property, your property is considered a junk yard per our current
93 ordinances, and that is a land use violation.

94
95 Dan went on to say that in the NC General Statutes, the criminal penalty says you can fine
96 \$50.00 per day or imprisonment for 30 days unless your local code says you can fine a higher
97 amount, and then you can fine up to \$500.00 per day. The reason you might want to do that
98 is so that a person who has 1 violation would be fined \$50.00, whereas a person who has 20
99 violations on their property (or a history of violations), you might want to fine them a little
100 bit more. That is under the criminal penalties.

101
102 Civil penalties would be per day per occurrence, and every day is an occurrence, every
103 violation is an occurrence. There is no monetary cap on civil penalties.

104
105 When the Code Enforcement Officer sends out a code enforcement letter, the violator is
106 given a specific amount of time to bring their property into compliance. If they do not
107 comply within that time frame, then every day after that is subject to daily fines. Of course
108 to continue to fine them on a daily basis as you would since every day is considered an
109 occurrence, the Code Enforcement Officer must check the property daily to see that the
110 violation still exists.

111
112 Terri Griffin asked hypothetically if a person fails to comply with removing a junked vehicle,
113 and the penalties keep accruing, at what point should the county seek to have the fines paid
114 or seek removal of the vehicle [abate the situation]? Dan Porter answered saying that the
115 county has the ability to abate the situation, to go in and tow the vehicle off the violators
116 property. The county would then incur the expense at that point, and there are some trespass
117 issues the Planning Department is trying to get clarification on. The county can tow the car,
118 store it for 30 days, then sell it for junk or at auction depending on its value, in order to cover
119 the costs incurred and the fines.

120
121 As stated before, the county must make sure the violation continues to exist prior to adding
122 daily fines. The county can then take the violator to court once the fines reach a sufficiently
123 high monetary amount (high enough to cover court costs, etc.). If the violator fails to pay the
124 fines after being found guilty in court, then they are in contempt of court, and it becomes a
125 legal matter for the legal system to handle.

126

127 Chairman Rodney Needham asked if there would be any form of citation which will tell the
128 violator how many days they have to comply with the ordinance. Aaron Maupin, Code
129 Enforcement Officer for the county explained the process. He will ride by a property
130 wherein an alleged violation exists, look for the vehicle(s) in violation, check to see if they
131 meet any of the criteria that apply to the definition of a junked motor vehicle, cite the
132 violation if they meet a couple of the criteria, and then send them a letter asking them to
133 abate the property within 10 days as per the Camden County Code of Ordinances. If they fail
134 to abate the property, the county can have the property abated upon the permission of the
135 owner of the property, but we cannot go on the property without their permission. Before the
136 letter is even sent, the Code Enforcement Officer generally looks up the property owner and
137 gives them a phone call to let them know that we are looking at their property and that they
138 are in violation and informs them of the intent of the county regarding their violation.

139
140 Vice Chairman Terri Griffin asked "What if you can't establish ownership? If there is no
141 license, you can't really tell..." Aaron Maupin responded to this saying that he has a contact
142 in the Theft and Bureau of Investigations at the DMV. They say that if we cannot identify it
143 that we can call them and they can check the Vehicle Identification Number through the
144 manufacturer. If it comes back as unidentifiable from the DMV, it's probably stolen.

145
146 Ms. Griffin further asked if fees and penalties can be attached to the real estate taxes. Dan
147 Porter answered this saying that it could not. If we cite them under the criminal penalties and
148 they fail to pay their criminal penalties, we can take them to court and at that point, if the
149 judge finds them in violation, we may be able to attach it to their property. Mr. Porter
150 indicated an amount of uncertainty in the answer to this question. He continued saying that
151 what can be attached is if the county abates the situation-i.e. we send them a bill and if they
152 don't pay- then the fees for abatement can be attached to their property.

153
154 Ms. Griffin had a concern regarding the amount of punitive actions. She indicated a desire to
155 refrain from being overly punitive. Dave Parks responded saying that the letter that is sent to
156 persons in violation says that they have 10 days to comply, this really means that they have
157 10 days to contact the Code Enforcement Officer. If they need an extension of time to
158 comply, and they have a good reason, an extension may be granted.

159
160 Dan Porter described this ordinance change (chapter 10, section 10.99) as a tool that is
161 somewhere between abatement, self-abatement, and criminal penalties to use to assist in the
162 enforcement of the law. We don't have to wait until the fees and penalties accrue to a point
163 where we can take them to court, we can go to the magistrate for assistance. The problem
164 with this is that if the violator is not going to comply, he probably won't comply with the
165 magistrate, and will end up in civil court anyway.

166
167 Dan Porter then referred to Chapter 90 Section 90.05, and described the section titled
168 "Exceptions". The county attorney recommended replacing the phrase "reasonable amount
169 of time" with a specific amount of time. Also, exceptions to chapter 90, as proposed, would
170 include military or civilian contractors stationed overseas, with proof of assignment (military
171 orders, etc.).

173 Dan then asked Aaron Maupin to speak about the definition of Abandoned and Junked
174 Vehicles (Chapter 90, Section 90.03). Dan stated that as the current ordinance reads,
175 following definition number 3, it says “or”. Aaron stated that staff would like to make the
176 ordinance so that a car that is suspected of being a junk vehicle would have to meet at least 2
177 of the 4 criteria given in the definition of Abandoned and Junked Vehicles. Staff would like
178 to avoid classifying a vehicle as junk if the only criteria it meets is being unregistered, hence
179 the reasoning behind meeting 2 out of the 4 criteria, since it is possible for a homeowner to
180 have multiple vehicles owned within their family and forget (or get behind on) the
181 registration of one or more of their vehicles. Meeting 2 out of 4 would eliminate this type of
182 situation, where an owner has forgotten to renew registration. This would make it easier for
183 both citizens and staff, and clear up a lot of confusion.

184
185 There was some discussion regarding the wording and placement of the word “or” within the
186 definition of a junked motor vehicle. The consensus between the Board and staff was to
187 reword the first line under “Definitions” to read “JUNKED MOTOR VEHICLES. A motor
188 vehicle that meets at least 2 out of the 4 criteria listed below:”, and remove the “or” from list
189 item number 3.

190
191 Staff also pointed out a change in definition item number 3, wherein the dollar amount is
192 raised to \$500.00 as opposed to \$100.00 as current ordinance states. This would make
193 number 3 read to indicate that the car is more than 5 years old and appears to be worth less
194 than \$500.00.

195
196 Chairman Rodney Needham asked who would have the authority to grant leniency in this
197 code of ordinance to citizens who request leniency. Dan Porter responded that the Code
198 Enforcement Officer has the authority to make the appropriate determinations. He added that
199 if citizens disagree with the decision(s) of the Code Enforcement Officer, then the citizens
200 have the right to appeal to the Board of Adjustment.

201
202 A few members of the Board spoke about some of the citizens as being ‘street-smart’ in that
203 they will do whatever they can to keep their vehicles in their yards (hide them, locate them in
204 areas of their property where the tags are not visible, etc.). Aaron responded to this saying
205 that he has been discussing with the Magistrate about how to get Administrative Search
206 Warrants for those types of situations where all that has to be proven is reasonable doubt, and
207 then he could go onto the property with a Sheriff’s Deputy to obtain pictures / details
208 regarding the presence of junked vehicles.

209
210 As an aside, Chairman Rodney Needham expressed the appreciation of the Board for the
211 work that Aaron Maupin is doing with regard to Code Enforcement. Dan Porter added that
212 Aaron is doing a very good job and has been getting a good amount of compliance from the
213 citizens.

At this time, Vice Chairman Terri Griffin made a motion to proceed with the ordinance changes as recommended by the Planning Department staff, with two additional changes: Change the first line under 90.03 Definitions to read "JUNKED MOTOR VEHICLES. A motor vehicle that meets at least 2 out of the 4 criteria listed below:", and remove the word "or" from after list item number 3. John Aydllett seconded the motion. The motion was approved with Chairman Rodney Needham, Vice Chairman Terri Griffin, Members Fletcher Harris, Ray Albertson, Calvin Leary, and John Aydllett voting aye; none voting no; 1 absent; none not voting.

Information from Board and Staff

There were a few information items from staff, they are listed below:

- Acceptance of roads from DOT (for DOT to accept and maintain roads)
- Buffering in and around developments
 - Planning Department will bring back language regarding road acceptance and buffering for March meeting of Planning Board.
- Possibility of placing a County Commissioner on the Planning Board as an Ex-Officio member of the board
- Commissioner Retreat in March – R4X is an agenda item for retreat

Consider Date of Next Meeting – March 18, 2009

Adjournment

At 8:05 PM, Ray Albertson made a motion to adjourn the meeting. John Aydllett seconded the motion. The motion was approved with Chairman Rodney Needham, Vice Chairman Terri Griffin, Members Fletcher Harris, Ray Albertson, Calvin Leary, and John Aydllett voting aye; none voting no; 1 absent; none not voting.

Date: _____

Approved: _____
Chairman Rodney Needham

Attested: _____
Amy Barnett, Planning Clerk